

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 16, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JODY LEE WALLETTE,

Defendant.

NO: 2:21-CR-72-RMP-1

ORDER GRANTING
GOVERNMENT'S UNOPPOSED
MOTION TO DISMISS
SUPERSEDING INDICTMENT
WITHOUT PREJUDICE

BEFORE THE COURT is a motion by the Government to dismiss the Superseding Indictment in this case without prejudice. ECF No. 75. "To the extent that the Indictment at ECF No. 1 remains in play notwithstanding the Superseding Indictment, the Government seeks to dismiss that charging document as well, without prejudice." *Id.* at 2. Defendant does not object to the motion. Having considered the motion and having noted that there is no objection to the motion, the Court is fully informed.

When a defendant consents to the government's motion to dismiss, the district court's discretion to deny the government's motion is tightly constrained, if it exists

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1 at all. *See Rinaldi v. United States*, 434 U.S. 22, 29 n.15 (1977) (per curiam)
2 (reserving judgment on the question of whether a district court has any discretion to
3 deny an uncontested motion to dismiss under Rule 48(a)); *United States v. Garcia-*
4 *Valenzuela*, 232 F.3d 1003, 1008 (9th Cir. 2000); *United States v. Gonzalez*, 58 F.3d
5 459, 462 (9th Cir. 1995). The only circumstance that the Ninth Circuit has thus far
6 articulated as a basis to reject an uncontested motion to dismiss without prejudice
7 from the government is when the prosecution's reasons for dismissal are "clearly
8 contrary to manifest public interest." *Gonzalez*, 58 F.3d at 461.

9 The Court notes Defendant's consent to the Government's motion for
10 dismissal and, further, does not find an indication that dismissal without prejudice
11 contravenes the "manifest public interest." *See Gonzalez*, 58 F.3d at 461.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. The United States' Motion to Dismiss Superseding Indictment Without
14 Prejudice, **ECF No. 75**, is **GRANTED**.

15 2. The Superseding Indictment, **ECF No. 29**, is **dismissed without**
16 **prejudice**.

17 3. To the extent that the Indictment at ECF No. 1 remains in play
18 notwithstanding the Superseding Indictment, the former Indictment, **ECF No. 1**, is
19 **dismissed without prejudice**, as well.

20 4. Any pending motions, if any, are **denied as moot** and all upcoming
21 deadlines and hearings are **vacated**.

